

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kaitlin Campbell	Team: Squad #13	CCRB Case #: 201702651	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/05/2017 10:50 AM	Location of Incident: Intersection of Flatbush Avenue and Fulton Street; Transit Bureau District 30 stationhouse	Precinct: 88	18 Mo. SOL 10/5/2018	EO SOL 10/5/2018	
Date/Time CV Reported Wed, 04/05/2017 5:02 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 04/05/2017 5:02 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Kathi Arias	08238	927050	TB DT30
2. POM Ryan Berls	00977	940970	TB DT30

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Carbone	25729	945553	TB DT30
2. POM Carmine Taverna	21057	943863	TB DT30

Officer(s)	Allegation	Investigator Recommendation
A.POM Ryan Berls	Force: Police Officer Ryan Berls used physical force against § 87(2)(b) at the intersection of Flatbush Avenue and Fulton Street.	
B.POF Kathi Arias	Force: Police Officer Kathi Arias used physical force against § 87(2)(b) at the intersection of Flatbush Avenue and Fulton Street.	
C.POF Kathi Arias	Force: Police Officer Kathi Arias used physical force against § 87(2)(b) at the intersection of Flatbush Avenue and Fulton Street.	
D.POM Ryan Berls	Force: Police Officer Ryan Berls restricted § 87(2)(b) s breathing at the intersection of Flatbush Avenue and Fulton Street and at the Transit Bureau District 30 stationhouse.	
E.POM Ryan Berls	Force: Police Officer Ryan Berls hit § 87(2)(b) against a vehicle at the Transit Bureau District 30 stationhouse.	

### Case Summary

On April 5, 2017, § 87(2)(b) called the CCRB to file this complaint on behalf of her sixteen-year-old daughter § 87(2)(b).

On April 5, 2017, at approximately 10:40 a.m. § 87(2)(b) crawled under a turnstile at the Nevins Street 2-3-4-5 train subway station and was approached by Police Officers Kathi Arias and Ryan Berls of Transit Bureau District 30 (TD30). In the course of apprehending § 87(2)(b) after she did not identify herself when asked and began to walk away, PO Arias and PO Berls took § 87(2)(b) to the ground and she landed face-first and hit her lip (**Allegations A and B**). PO Arias pushed the left side of § 87(2)(b)'s face into the ground with her hand (**Allegation C**). PO Berls pressed his knee into § 87(2)(b)'s back and restricted her breathing (**Allegation D**). § 87(2)(b) screamed, drawing the attention of a small crowd. Police Officers Carmine Taverna and Robert Carbone, also of TD30 arrived and assisted PO Berls to handcuff § 87(2)(b) and bring her to her feet. PO Berls carried § 87(2)(b) up the stairs, out of the station, and placed her in the police car parked outside. As PO Berls put § 87(2)(b)'s seatbelt on, he pressed his forearm into her throat, restricting her breathing (**also Allegation D**). PO Berls drove to the stationhouse, PO Arias sat in the passenger seat, and PO Taverna sat beside § 87(2)(b) in the backseat. PO Berls swerved the car, causing § 87(2)(b) to hit her head on the window (**Allegation E**). When they arrived at the precinct stationhouse, PO Berls placed his forearm against § 87(2)(b)'s throat, restricting her breathing, as he unbuckled her seatbelt (**also Allegation D**).

§ 87(2)(b) was placed in a holding cell for approximately two hours before her mother, § 87(2)(b) arrived. § 87(2)(b) was placed in an ambulance and admitted to the emergency room at § 87(2)(b) at § 87(2)(b) treated for wrist pain, and released back into police custody at § 87(2)(b).

PO Arias was treated at § 87(2)(b) which she sustained from falling on the platform when trying to apprehend § 87(2)(b). No video footage was obtained that captured this incident.

### Mediation, Civil and Criminal Histories

- Mediation was not offered to § 87(2)(b) because she was arrested.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- From receipt of a FOIL request sent to the City of New York Comptroller's office on June 30, 2017, it was determined no notice of claim was filed in relation to this incident.

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint of which § 87(2)(b) is listed as a victim.
- § 87(2)(b) has been listed as a victim in five previous CCRB complaints. § 87(2)(b)  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(b)

- In the course of her sixteen-year tenure with the NYPD, PO Arias has been the subject of one prior CCRB complaint in which both the allegations were exonerated.
- In the course of his eleven-year tenure with the NYPD, PO Berls has been the subject of two CCRB complaints, of which one allegation was unfounded, one exonerated, and one administratively closed.

### **Findings and Recommendation**

#### **Allegations Not Pleaded**

§ 87(2)(g)

**Allegation A – Force: Police Officer Kathi Arias used physical force against § 87(2)(b) at the intersection of Flatbush Avenue and Fulton Street.**

**Allegation B – Force: Police Officer Ryan Berls used physical force against § 87(2)(b) at the intersection of Flatbush Avenue and Fulton Street.**

In § 87(2)(b)'s account, she crawled under the turnstile, saw PO Berls and PO Arias on the platform and walked downstairs. After a back and forth about providing identification, both officers took hold of her arms, and she moved around, asked the officers what they were doing, to get off her, and told them she did not do anything wrong. The officers told § 87(2)(b) to put her hands behind her back. She told them no and tightly held her forearms together in front of her. PO Berls twisted one of § 87(2)(b)'s arms back. § 87(2)(b) asked him to stop, and he told her to put her hands behind her back. PO Berls and PO Arias, holding § 87(2)(b) by the arms, pushed her down to the floor and she landed face first and hit her lip; she laid face-down on the platform. According to her medical records, § 87(2)(b) never complained of pain to her lip. § 87(2)(b)'s mugshot photograph, taken two hours after her apprehension, does not show evidence of swelling or bruising to her lip (**Board Review 02**).

PO Arias stated the officers asked § 87(2)(b) first for I.D. and then asked how old she was three times. PO Arias intended to possibly issue § 87(2)(b) a summons if she provided I.D. When § 87(2)(b) began to walk away and PO Arias took hold of one of her arms, § 87(2)(b) jerked her arm away, which caused PO Arias to lose her footing and fall to the ground, landing on her knee. PO Arias pulled § 87(2)(b) to the ground by her right arm and PO Berls assisted in bringing her to the ground, holding § 87(2)(b)'s left arm. PO Arias did not see how PO Berls took her to the ground. § 87(2)(b) landed on her left side and PO Arias “sort of cradled” her as she landed. PO Arias did not believe her head or lip made contact with the ground. § 87(2)(b) later complained during the car ride that the officers had “busted [her] lip.” PO Arias told § 87(2)(b) nothing was wrong with her lip, and § 87(2)(b) began biting her lip.

PO Berls stated § 87(2)(b) did not say anything before she began to walk away and made it about five feet from the officers. § 87(2)(b) screamed and said things like “fuck you,” and “what are you doing?” Upon apprehension, PO Berls told § 87(2)(b) to stop resisting and said something like “we need your hands.” PO Berls held of one of § 87(2)(b)



§ 87(2)(g)

**Allegation D – Force: Police Officer Ryan Berls restricted § 87(2)(b)s breathing at the intersection of Flatbush Avenue and Fulton Street and at the Transit Bureau District 30 stationhouse.**

§ 87(2)(b) said PO Berls placed his knee on her back for a couple of seconds while trying to retrieve her arms. § 87(2)(b) said she could not breathe under the weight of PO Berls' knee on her back; she yelled that she couldn't breathe and for the officers to "please stop" continuously throughout the incident while moving her body and clenched her arms against her chest. Then, § 87(2)(b) alleged that as PO Berls put on her seatbelt, he placed his left forearm against her throat and restricted her breathing by placing continuous pressure on her throat for five seconds as he buckled § 87(2)(b)s seatbelt. § 87(2)(b) told him she could not breathe and to please let go. During the ride, § 87(2)(b) said she argued with PO Arias, PO Berls, and PO Taverna. When they arrived at the transit stationhouse PO Berls placed his forearm against her throat again and placed continuous pressure on it for about five seconds as he unbuckled her seatbelt.

In the subway station, PO Arias said § 87(2)(b) began to scream as soon as she landed on the ground. PO Arias told § 87(2)(b) to stop screaming and moved her hair away from her face. PO Arias did not see PO Berls place his knee into § 87(2)(b)s back. PO Arias did not see PO Berls put § 87(2)(b)s seatbelt on or take it off.

PO Berls said he put his knees against § 87(2)(b)s legs, not her back.

PO Berls, PO Carbone, and PO Taverna did not remember § 87(2)(b) say she could not breathe at any point, but all of the officers said § 87(2)(b) screamed continuously and did not respond in any way to their verbal attempts to calm her.

During the vehicle transport, PO Berls initially said he held § 87(2)(b) down while PO Taverna buckled her in and later said he did not know whether any officer needed to hold § 87(2)(b) against the seat while she was being buckled in or unbuckled. PO Berls denied placing his forearm against § 87(2)(b)s throat and applying continuous pressure for five seconds while buckling or unbuckling her.

PO Carbone, who only saw § 87(2)(b) buckled in, said PO Berls placed his hand on her top-right shoulder to hold her against the seat as he seat-belted her; PO Carbone did not see PO Berls place his forearm against her throat.

PO Taverna said PO Berls placed § 87(2)(b) into the seat, and placed one of his forearms against § 87(2)(b)s shoulder, holding her against the seat of the car while he used his other arm to pull the seatbelt across § 87(2)(b)s chest and buckle it. PO Taverna did not see PO Berls place his forearm against her throat at any point.

All of the officers said § 87(2)(b) continued to kick, scream, and curse while being placed into the car and all officers except PO Carbone, who did not ride in the car, said she continued this behavior during the drive and upon arrival to the stationhouse, including, at one point partially rolling down the window. PO Taverna reached over her, held her shoulder against the seat with his forearm and rolled the window up.

§ 87(2)(g)

[REDACTED]

**Allegation F – Force: Police Officer Ryan Berls hit § 87(2)(b) against a vehicle.**

§ 87(2)(b) alleged that, during the drive to the transit stationhouse, PO Berls purposefully swerved the car so that she hit her head against the window after he called her “stupid” for making a “big scene” and she called him “stupid” for “what [he] did to her.”

PO Arias did not see § 87(2)(b) smack against the side of the car in any way; PO Berls denied purposefully jerking the car in a way that would make her slam against the insides of it; and PO Taverna denied PO Berls did so.

§ 87(2)(g)

[REDACTED]

Squad: 14

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date